

Notice of Allowability

Application No.

10/024,891

Examiner

O'Connor

Applicant(s)

Rogers et al.

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE w/Amdt of June 20, 2007.
2. ☒ The allowed claim(s) is/are 1, 5-13, and 16-30.
3. ☒ The drawings filed on April 8, 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Allowable Subject Matter

1. The following is an examiner's statement of reasons for allowance:

The closest prior art, Bugarin et al. (US 6,606,570), discloses a method of configuring a process plant related to analyzing a plurality of process control instruments capable of use in a specific process control environment, comprising: receiving data 415 related to the specific process control environment (see, in particular, Figures 4 and 5), in which at least one of the plurality of process control instruments is potentially to be used, via a computer device; and determining/calculating 420 operation of one or more performance characteristics of each of the plurality of process control instrument indicating 425 the operation of each of the process control instruments when used in the specific process control environment (see, in particular, Figures 4 and 6).

However, the Bugarin et al. reference fails to disclose, or fairly suggest, a method of configuring a process plant that includes the steps of: storing the received process control environment data in a memory associated with the computer device in a manner that allows the process control environment data to be accessed at a later time; receiving, via the computer device, device data indicating device-specific operating characteristics for each of the plurality of process control instruments and storing the received device data in a memory associated with the computer device in a manner that allows the device data to be accessed at a later time; enabling a user to select a source for at least one of the device data and the process environment

data, from which source the computer device receives the at least one of the device data and the process environment data, and wherein the selected source for the at least one of the process environment data and the device data is one of a user input, a memory, and a database; storing, in a memory associated with the computer device, a modeling routine to model, using the device data, the operation of each of the plurality of process control instruments within the specific process control environment defined by the received process environment data; using the computer device, the modeling routine, the received process environment data and the device data to model the operation of each of the plurality of process control instruments within the specific process control environment defined by the received process environment data; determining, from based on the modeled operation of each of the plurality of process control instruments, using the computer device, one or more performance characteristics for each of the plurality of process control instruments indicating the modeled performance of each of the plurality of process control instruments when used in the specific process control environment and storing the one or more performance characteristics in a memory associated with the computer device in a manner that allows the one or more performance characteristics to be accessed at a later time; retrieving the one or more stored performance characteristics from the memory associated with the computer device, to allow display to a user of the one or more performance characteristics; and displaying, via a display device, the one or more performance characteristics for each of the plurality of the process control instruments simultaneously via the computer device to enable a user to simultaneously view the one or more performance

characteristics for each of the plurality of process control instruments in a manner that allows a user to choose, from among the plurality of process control instruments, the process control instrument best suited for the specific process control environment in which the process control instrument is to be used.

2. Note that, though expressly included in the search for prior art, no foreign patents, nor any non-patent literature were identified that could reasonably be considered sufficiently relevant or pertinent so as to be characterized and addressed as “closest prior art.”

3. Any comments considered necessary by applicant must be submitted no later than payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

4. PLEASE TAKE NOTICE, that failure by the examiner to respond to any such statement commenting on reasons for allowance does not give rise to any implication. See 37 CFR § 1.104(e).

5. Likewise, failure of applicant to comment on the examiner’s statement of reasons for allowance should not be treated as acquiescence to the examiner’s statement. *Salazar v. Procter & Gamble Co.*, 414 F.3d 1342, 1347, 75 USPQ2d 1369, 1373 (Fed. Cir. 2005). See MPEP § 1302.14(V).

Conclusion

6. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is **(571) 272-6787**, and whose facsimile number is **(571) 273-6787**.

Official replies to this Office action may now be submitted electronically by registered users of the EFS-Web system. Information on EFS-Web tools is available on the Internet at: <http://www.uspto.gov/ebc/portal/tools.htm>. An EFS-Web Quick-Start Guide is available at: <http://www.uspto.gov/ebc/portal/efs/quick-start.pdf>.

Alternatively, official replies to this Office action may still be submitted by any *one* of fax, mail, or hand delivery. **Faxed replies should be directed to the central fax at (571) 273-8300.** Mailed replies should be addressed to "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be delivered to the "Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314."

GJOC

June 22, 2007



Gerald J. O'Connor

Primary Examiner

Group Art Unit 3627